

In the United States Court of Federal Claims

No. 20-1884C

Filed: February 22, 2021

**MELWOOD HORTICULTURAL
TRAINING CENTER, INC.,**

Plaintiff,

v.

THE UNITED STATES,

Defendant.

ORDER

On December 16, 2020, Melwood Horticultural Training Center, Inc. (“Melwood”) filed a two-count Complaint challenging an Ability One procurement at Fort Meade. (Compl., ECF No. 1). On February 9, 2021, after the filing of the Administrative Record and the parties’ joint stipulation of facts, Melwood moved for judgment on the Administrative Record. (ECF No. 15). On February 16, 2021, Melwood moved to amend its Complaint pursuant to RCFC 15(a)(2) to add a third count. (Motion for Leave to Amend, ECF No. 16). The United States opposes that Motion, noting that its Response and Cross-Motion for Judgment on the Administrative Record is due tomorrow, February 23, 2021, and arguing that that an Amended Complaint at this late stage would cause prejudice to the United States. (*See* ECF No. 18).

Under RCFC 15(a)(2), “[t]he court should freely give leave when justice so requires[.]” except in instances where amendment would cause “undue prejudice to the opposing party[.]” *Foman v. Davis*, 371 U.S. 178, 182 (1962). The Court is flummoxed as to why Melwood waited until this late stage to seek leave to amend its Complaint, placing the United States in the awkward position of responding to a new cause of action on short notice. Nevertheless, the Court finds that any prejudice to the United States can be remedied by extending the deadline for the United States to file its Response and Cross-Motion for Judgment on the Administrative Record.

Accordingly, the Court **GRANTS** Melwood’s Motion for Leave to Amend its Complaint, (ECF No. 16). Melwood is **ORDERED** to file its Amended Complaint, and if necessary, a redacted version suitable for the public docket **no later than February 23, 2021 by 5:00 PM (ET)**. Finally, in consideration of the United States’ request, the Court adopts the following revised schedule for further proceedings:

<u>Event</u>	<u>Deadline</u>
Melwood shall file its Amended Complaint, and if necessary, a redacted Amended Complaint	February 23, 2021 no later than 5:00 PM (ET)
The United States shall file its Response and Cross-Motion for Judgment on the Administrative Record	March 2, 2021
Melwood shall file its Reply in support of its MJAR and Response to the United States' Cross-MJAR	March 9, 2021
The United States shall file its Reply in support of its Cross-MJAR	March 16, 2021
Oral Argument	TBD

IT IS SO ORDERED.

s/ David A. Tapp
DAVID A. TAPP, Judge